

Mackie Wolf Zientz & Mann, P.C.  
Chelsea Schneider  
Parkway Office Center, Suite 900  
14160 North Dallas Parkway  
Dallas, Texas 75254  
(214) 635-2650  
(214) 635-2686 - Facsimile

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

In re: STEPHEN DOUGLAS DURHAM	§ Case No. 15-42668-rfn13 (Chapter 13)
AKA STEPHEN DURHAM	§
DOUGLAS and JENNIFER LYNN	§
DURHAM	§ HEARING DATE: 11/24/2015
OCWEN LOAN SERVICING, LLC, its	§ TIME: 09:30 AM
successors and/or assigns, Movant	§
vs.	§ JUDGE RUSSELL F. NELMS
STEPHEN DOUGLAS DURHAM AKA	§
STEPHEN DURHAM DOUGLAS and	§
JENNIFER LYNN DURHAM, Debtor and	§
TIM TRUMAN, Trustee, Respondents	§

**MOTION FOR RELIEF FROM AUTOMATIC STAY AGAINST DEBTOR(S)  
REGARDING 1910 PIN OAK LANE, DALLAS, TX 75253 AND WAIVER OF THIRTY  
DAY REQUIREMENT PURSUANT TO 11 U.S.C. §362(e)**

**NOTICE – RESPONSE REQUIRED**

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001(B), A RESPONSE IS REQUIRED. THE TRUSTEE (IF ONE HAS BEEN APPOINTED) OR THE DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF FROM AUTOMATIC STAY WITHIN 14 DAYS FROM THE SERVICE OF THE MOTION. THE DEBTOR'S RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE ADEQUATELY PROTECTED IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.**

**FILE WRITTEN RESPONSE WITH THE COURT AT:  
ELDON B. MAHON U.S. COURTHOUSE  
501 W. 10TH ST.  
ROOM 147  
FT. WORTH, TX 76102-3643**

**HEARING PARTICIPANTS ARE NOTIFIED THAT ABSENT COMPELLING CIRCUMSTANCES, EVIDENCE PRESENTED AT PRELIMINARY HEARINGS IN THE DALLAS DIVISION ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY BE BY AFFIDAVIT ONLY. THE PARTY REQUESTING THE HEARING MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 7 DAYS IN ADVANCE OF SUCH HEARING; THE RESPONDING PARTY MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 48 HOURS IN ADVANCE OF SUCH HEARING.**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

OCWEN LOAN SERVICING, LLC (“Movant”) hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor(s) having an address of 1910 PIN OAK LANE, DALLAS, TX 75253 (the “Property”). The facts and circumstances supporting this Motion are set forth in the Affidavit in Support of Motion for Relief from Automatic Stay filed contemporaneously herewith (the “Affidavit”). In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor(s) on 07/06/2015.
2. The Debtor STEPHEN DOUGLAS DURHAM AKA STEPHEN DURHAM AND Co-Debtor JENNIFER LYNN DURHAM AKA JENNIFER DURHAM have executed and delivered or are otherwise obligated with respect to that certain promissory note in the original principal amount of \$179,401.00 (the “Note”). A copy of the Note is attached hereto as Exhibit “A”. Movant is an entity entitled to enforce the Note.
3. Pursuant to that certain Deed of Trust (the “Deed of Trust”), all obligations (collectively, the “Obligations”) of the Debtor(s) under and with respect to the Note and the Deed of Trust are secured by the Property. A copy of the Deed of Trust is attached hereto as Exhibit “B”.

4. All rights and remedies under the Deed of Trust have been assigned to the Movant pursuant to that certain assignment of deed of trust, a true and correct copy of which is attached hereto as Exhibit "C".

5. The legal description of the Property is set forth in the Deed of Trust, a copy of which is attached hereto, and such description is incorporated and made a part hereof by reference.

6. Ocwen Loan Servicing, LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtors obtain a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

7. As of October 15, 2015, the amount of the outstanding Obligations is at least **\$190,857.01.**

8. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$650.00 in legal fees and \$176.00 in costs. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

9. The following chart sets forth the number and amount of post-petition payments due pursuant to the terms of the Note that have been missed by the Debtor(s):

Number of Missed Payments	From	To	Missed Monthly Principal and Interest	Missed Monthly Escrow (if applicable)	Missed Monthly payment Amount	Total Amounts Missed

3	08/01/2015	10/01/2015	\$1,018.62	\$481.45	\$1,500.07	\$4,500.21
Less post-petition Partial Payments (suspense balance) :						(\$0.00)

**Total: \$4,500.21**

10. Attached hereto as Exhibit "D" is a post-petition payment history with respect to the Obligations.

11. Cause exists for relief from the automatic stay for the following reasons:

- (a) Movant's interest in the Property is not adequately protected.
- (b) Post petition payments have not been made to Movant.
- (c) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor(s) has/have no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.

4. In the event that the stay terminates as to the Property and the Property is foreclosed, i.e., Debtor(s) no longer have title to the Property, Movant is relieved of the requirements set forth in FRBP 3002.1 with respect to the Property.

5. For such other relief as the Court deems proper.

Respectfully submitted,

MACKIE WOLF ZIENTZ & MANN, P.C.

/s/ Chelsea Schneider

Chelsea Schneider

State Bar No.: 24079820

Mackie Wolf Zientz & Mann, P.C.

Parkway Office Center, Suite 900

14160 North Dallas Parkway

Dallas, Texas 75254

Phone: (214) 635-2650

Facsimile: (214) 635-2686

ATTORNEY FOR MOVANT

**Certificate of Conference and Certificate of Service**

The undersigned hereby certifies that on October 27, 2015 Stephen Wu called Opposing Counsels office, informed them of the contents of this motion and a message was left informing Opposing Counsel that this motion would be filed. Furthermore, I hereby certify that a copy of this motion was served on the persons listed below in the manner indicated on 3<sup>rd</sup> of November, 2015.

/s/ Chelsea Schneider  
Chelsea Schneider

Via Pre-Paid U.S. Mail:

STEPHEN DOUGLAS DURHAM AKA STEPHEN DURHAM DOUGLAS  
JENNIFER LYNN DURHAM  
1910 PIN OAK LANE  
DALLAS, TX 75253  
Debtor(s)

Via ECF:  
BEHROOZ P. VIDA  
3000 CENTRAL DRIVE  
BEDFORD, TX 76021  
Attorney for Debtor(s)

Via ECF:  
TIM TRUMAN  
6851 N.E. LOOP 820, SUITE 300  
FORT WORTH, TX 76180  
CHAPTER 13 TRUSTEE

Via ECF:  
US TRUSTEE  
441 G STREET, NW, SUITE 6150  
WASHINGTON, DC 20530